

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION**

GREGORY SCOTT AND MICHELLE
SCOTT, INDIVIDUALLY AND ON
BEHALF OF THE MINOR J.S. AS THE
PARENTS AND TUTORS OF J.S.

CIVIL ACTION NO. 16-0376

VERSUS

JUDGE S. MAURICE HICKS, JR.

RUSTON LOUISIANA HOSPITAL
COMPANY, LLC

MAGISTRATE JUDGE HAYES

MEMORANDUM ORDER

Considering Plaintiffs Gregory and Michelle Scott's (collectively "Plaintiffs")
"Motion for Leave to Amend/Supplement Prior Order" (Record Document 66),

IT IS ORDERED that the Motion be and is hereby **GRANTED**. On August 16, 2017,
the Fifth Circuit Court of Appeals dismissed Plaintiffs' interlocutory appeal for lack of
jurisdiction. See Record Document 65. The ground for dismissal was the fact that
Plaintiffs filed a notice of appeal rather than a petition for permission to appeal, which is
the proper method of seeking a discretionary appeal with the Fifth Circuit. See id.

Despite Plaintiffs' procedural error, the Court finds that under 28 U.S.C. § 1292(b):

- (1) the substantive question of whether the Louisiana Medical Malpractice Act's
damages caps apply to Plaintiffs' Emergency Medical Treatment and Labor Act
("EMTALA") claim remains a controlling question of law as to which there is
substantial ground for difference of opinion; and
- (2) an immediate appeal from the Court's Memorandum Ruling and Order adopting
the Magistrate Judge's Report and Recommendations (Record Documents 58 and
59) may materially advance the termination of the litigation.

In support of this finding, the Court hereby restates and incorporates by reference the
Court's previous Memorandum Ruling and Order granting Plaintiffs' Motion for
Interlocutory Appeal (Record Documents 62 and 63). The Court is unaware of any facts

that would change the Court's reasoning for granting the interlocutory appeal as stated in that Memorandum Ruling and Order. The issue of the applicability of the damages caps to the EMTALA claim remains as controlling a question of law now as it was at the time of the Court's previous Memorandum Ruling and Order, and resolving the issue in an interlocutory appeal would still materially advance the termination of the litigation.

Under 28 U.S.C. § 1292(b), Plaintiffs are granted until Monday, August 28, 2017, ten days after the entry of this order, to file a petition for permission to appeal the Court's decisions in its Memorandum Ruling and Order adopting the Magistrate Judge's Report and Recommendations (Record Documents 58 and 59).

THUS DONE AND SIGNED at Shreveport, Louisiana, on this the 18th day of August, 2017.


S. MAURICE HICKS, JR.
UNITED STATES DISTRICT JUDGE